

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY

DISTRICT DIRECTOR
1100 COMMERCE STREET
DALLAS, TX 75242-0000

Date: AUG 12 1996.

Employer Identification Number:
[REDACTED]

Contact Person:
[REDACTED]

Contact Telephone Number:
[REDACTED]

Refer Reply To:
[REDACTED]

Dear Sir:

We have completed our consideration of your application for tax-exempt status under section 501(c)(4) of the Internal Revenue Code.

[REDACTED] was incorporated in the City of Dallas, Texas. It encompasses an area bordered on the North by [REDACTED], the east by [REDACTED], the south by [REDACTED], and the west by [REDACTED] (see enclosed city map), an area of approximately 24 blocks in the downtown area of [REDACTED]. Within its area are approximately [REDACTED] single family residences. During its existence, approximately one half of the residences have participated in the activities of the Corporation by becoming members of the Corporation.

The purpose of the Corporation is to contract for private security services to reduce the incident of residential and automobile burglaries, vandalism, and to a lesser extent assaults. The contract provides for a security patrol. A phone number, with which to contact the patrol, is published in the neighborhood newsletter. The letter is published by [REDACTED], a section 501(c)(3) organization, and is distributed to all units within the neighborhood regardless of whether they belong to either of the [REDACTED]. [REDACTED] has stated that the patrol will respond to any call, regardless of whether the caller is a member or not.

Incidental security services are provided to the residents of the area who belong to the [REDACTED]. Said services are pick-up of newspapers and extra surveillance when the residents are absent on vacations, etc.. This service is provided when the residents notify the company providing the security service.

The area encompassed by the Corporation is served by the [REDACTED] and the [REDACTED]. These services are provided to all residents within the Corporation area and other areas within the City.

Section 501(c)(4) provides exemption for civic leagues or organization not organized for profit but operated exclusively for the promotion of social welfare.

Regulations 1.501(c)(4)-1 states that an organization may be exempt if it is not organized or operated for profit; and, it is operated exclusively for the promotion of social welfare.

Regulations 1.501(c)(4)-1(a)(2) states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of a community (emphasis added).

Revenue Ruling 72-102, 1972-1 C.B. 149, described an organization formed by a developer to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for the use of the residents. The organization was determined to be exempt under section 501(c)(4). The rationale behind this decision was that the organization served the common good and general welfare of the entire community because it owned and maintained certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments.

Revenue Ruling 74-99, 1974-1 C.B. 131, modified Revenue Ruling 72-102 by attempting to clarify the definition of "community." It stated that a "community" within the meaning of section 501(c)(4) was not merely "an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein." Although it was stated that an exact delineation of the boundaries of a "community," within the scope of section 501(c)(4) was not possible, it was noted that the term as used in this section "has traditionally been construed as having a reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof." No minimum size was set.

Revenue Ruling 75-386, 1975-2 C.B. 211, granted exempt status within the meaning of section 501(c)(4) to an organization whose primary activity was in the area of public safety and crime prevention. The organization, with the authorization of local government, contracts with a private security firm to provide the community (emphasis added) with professionally trained security personnel. In addition, the organization works with the local government to obtain better street lighting and increased police patrols in the community.

The organization also engaged in activities encouraging housing code enforcement, removal of deteriorated structures, and improvement of residential parking. It holds various holiday programs for local residents and sponsors a community basketball league. It published a free newspaper to all residents of the community and distributed the newspaper to all residents regardless of whether they belonged to the organization, or not.

The Ruling used the term "community" throughout its discussion of the various issues. It must be construed that the term "community" was used as was defined earlier Ruling 75-386.

In Rancho Santa Fe Association v. U.S., 84-2 USTC 9536, exempt status was reinstated to a homeowners' association formed to enforce protective covenants in a housing development. The court determined that the housing development constituted an independent community and performed the functions of a governmental entity by providing recreational facilities and bringing about civic and social improvements for the community.

Rancho Santa Fe was a large, self-contained housing development located just north of San Diego. The property contained approximately 3,000 members located on 6,100 acres. The association oversaw the governing of the property within the area by enforcing covenants and setting up various boards, including a planning board, park board, health board, library board,

[REDACTED]

and recreation board. The association also furnished private security protection by way of the Rancho Santa Fe Patrol.

The Court determined that Rancho Santa Fe as a development constituted an independent community within the meaning of the statute. It was a housing development, significant in size and self-contained in orientation. It was not the ordinary residential grouping of tract homes, but was an independent community separated geographically from the central area of the city of San Diego of which Rancho Santa Fe was a sub-part. It had its own post office, zip code, and public school district.

In Columbia Park and Recreation Association, Inc. v. Commissioner, 88TC 1 (1/6/87), the organization was exempt under section 501(c)(4) but was seeking exemption under section 501(c)(3). Its purposes were to develop and operate utilities, systems, services, and facilities for the common good and social welfare of the people of the community. The community was a private real estate development with a population of more than 100,000 residents. Columbia was an unincorporated part of Howard County and was not a political subdivision. It was a planned community which offered low, middle, and high income housing integrated with business, industrial, and recreational facilities. The Court determined that the organization was not organized or operated principally for charitable purposes since any benefit to the public at large was merely incidental. The organizations's exemption under section 501(c)(4) was not challenged.

In reviewing the precedential court cases and the Service's interpretations in revenue rulings, the determination of whether an organization constitutes a "community" by being a "geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof" is critical to determining exempt status. In the two court cases cited above the organizations were clearly recognizable as a "community" with governmental attributes.

[REDACTED] has not demonstrated any of the attributes that are attributable to a community. It maintains no common areas, provides no common services beyond security, and engages in no other activities than contracting. It is a grouping of fifty percent of the homeowners within [REDACTED] who have chosen to band together in an attempt to enhance the safety and law enforcement within their neighborhood. There is no other purpose than being a financial conduit for collecting fees and providing a single point of contact with which the private security service might contract.

Although the additional security benefits the non-participating residents of the neighborhood, even if the area were a "community," a question would arise as to whether the services were for the benefit of the community and serving public rather than private interest. During a seven year period, the average participation in the Corporation was [REDACTED] % of the residents.

The services are primarily for the benefit of the members they are serving and directly correspond to the standard of services and amenities the participating homeowners can afford to provide. Payment of taxes would guarantee police protection though possibly not to the standards the organization wishes to maintain.

The applicant, [REDACTED], does not meet the precedent set by the courts, nor the interpretations found in the

revenue rulings to qualify for exemption under the provisions of section 501(c)(4).

If you do not file a protest with this office within 30 days of the date of this letter, this proposed determination will become final.

If you agree with these conclusions or do wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelop as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bobby E. Scott", written in a cursive style.

Bobby E. Scott
District Director

Enclosures:
Publication 892
Form 6018

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

☒ Denial of exemption

☐ Revocation of exemption, effective

☐ Modification of exempt status from section 501(c)() to 501(c)(), effective

☐ Classification as a private foundation (section 509(a)), effective

☐ Classification as a non-operating foundation (section 4942(j)(3)), effective

☐ Classification as an organization described in section 509(a)(), effective

☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Edgemere Park Security Corporation

Signature and Title

Date

Signature and Title

Date